

**THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

JESSICA NUGENT, individually and as)	
Plaintiff Ad Litem on behalf of L. N.)	
and)	
MIKA NUGENT,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 3:13-cv-5089
)	
CARL JUNCTION R-1 SCHOOL DISTRICT,)	
PHILLIP COOK, GARY REED,)	
SCOTT SAWYER, TREVOR CHASE,)	
BEN WITHERS, THERESA WILSON,)	
and DAVID ROUGHTON,)	
)	
Defendants.)	

NOTICE OF REMOVAL

COME NOW Defendants, Carl Junction R-1 School District, Phillip Cook, Gary Reed, Scott Sawyer, Trevor Chase, Ben Withers, Theresa Wilson and David Roughton, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, and for their Notice of Removal, state as follows:

1. The above-entitled action, now pending in the Twenty-Ninth Circuit Court of Missouri, Jasper County, Carthage Division, is a civil action alleging claims for wrongful death, negligence, violation of Title IX of the Education Amendments of 1972, and various theories of liability under 42 U.S.C. § 1983 against the Carl Junction R-1 School District, and named School District administrators and employees related to Plaintiff L. N.’s suicide.

2. Pursuant to the requirements of 28 U.S.C. § 1446(a), a copy of Plaintiffs’ Petition, together with “all process, pleadings, and orders served upon” Defendants are attached hereto as **Exhibit A.**

3. Plaintiffs' Petition was filed on or about May 15, 2013, and the case was assigned number 13AP-CC00033 by the Twenty-Ninth Circuit Court of Missouri, Jasper County, Carthage Division. The named Defendants were served with a copy of Plaintiff's Petition on May 20, 2013.

4. This Notice of Removal is timely filed within the 30 days permitted by 28 U.S.C. § 1446(b).

5. The undersigned counsel represents all named defendants in this matter and all named defendants consent to the removal of this matter to this Court.

6. As the Twenty-Ninth Circuit of Missouri lies within this district, this Court is the appropriate venue for removal. 28 U.S.C. §§ 1441(a) and 1446(a); L.R. 3.1(a)(3)(b).

7. Defendants are removing this matter based upon federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1441(a). Federal question jurisdiction exists over Plaintiff's Petition as Plaintiffs allege four claims brought pursuant to 42 U.S.C. § 1983 as well as a claim for alleged violation of Plaintiffs' rights under Title IX of the Education Amendments of 1972. *See* 20 U.S.C. §§ 1681-1686; 42 U.S.C. § 1983; Pls.' Petition pp. 15-31.

8. Plaintiffs' Petition clearly sets out their intended claims for relief to include "Violation of Title IX," "Section 1983-State Created Danger," "Supervisory Liability for Participation in and Encouragement of Unconstitutional Misconduct by Subordinates (42 U.S.C. § 1983)," "Denial of Substantive Due Process Through Failure to Train and Supervision (42 U.S.C. § 1983)," and "Denial of Substantive Due Process through a Policy, Custom and Practice of Failing to Respond to or Prevent Bullying and/or Harassment in its Schools (42 U.S.C. § 1983)." *See* Pls.' Petition pp. 15, 17, 21, 24 & 29.

9. Therefore, this Court has original jurisdiction over Plaintiffs' Petition because this action arises under federal law and removal to this Court is proper. 28 U.S.C. §§ 1331 and 1441(a).

10. Contemporaneously herewith, Defendants have given Plaintiffs written notice of their filing of this Notice of Removal as required by 28 U.S.C. § 1446(d). A copy of that Notice is attached hereto as **Exhibit B**.

11. Pursuant to the requirements of 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, Defendants shall send a Notice to the State Court to the Clerk of the Twenty-Ninth Circuit Court of Missouri, Jasper County, Carthage Division, for filing. A copy of that Notice is attached hereto as **Exhibit C**.

WHEREFORE, having fulfilled all statutory requirements, Defendants Carl Junction R-1 School District, Phillip Cook, Gary Reed, Scott Sawyer, Trevor Chase, Ben Withers, Theresa Wilson and David Roughton remove the above-described action pending in the Twenty-Ninth Circuit Court of Missouri under Case No. 13AP-CC00033 to this Court, and request this Court assume full jurisdiction over the matter as provided by law and permit this action to proceed before it as a matter properly removed thereto.

Respectfully submitted,

MICKES GOLDMAN O'TOOLE, LLC

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Attorneys for Defendants

Carl Junction R-1 School District, Phillip Cook,

Gary Reed, Scott Sawyer, Trevor Chase, Ben

Withers, Theresa Wilson and David Roughton

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of June, 2013, a true and correct copy of the foregoing Notice of Removal was served via facsimile, electronic mail, and/or and by U.S. mail, postage prepaid, to:

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